

VIRGINIA:

BEFORE THE VIRGINIA GAS AND OIL BOARD

IN RE: VGOB DOCKET NO. 96-0820-0553

RECOMMENDATION BY THE VIRGINIA GAS AND OIL INSPECTOR (herein "Inspector") THAT THE VIRGINIA GAS AND OIL BOARD (herein "Board") IMPOSE A CIVIL CHARGE AGAINST CONSOL Inc. (herein "Operator") PURSUANT TO BOARD ORDER ENTERED IN VGOB DOCKET NO. 92-0529-0226 (herein "Civil Charge Procedural Rules")

1. Hearing Date and Place: This matter came on before the Board for final hearing at 9:00 a.m. on August 20, 1996, Dickenson conference Room, Southwest Virginia 4-H Center, Abingdon, Virginia, pursuant to Va. Code § 45.1-361.8.C. and the Civil Charge Procedural Rules, upon the Inspector's recommendation that the Board impose a civil charge on the Operator for conducting gas operations at the site of Well CBM U-15J (herein "Well") without an approved permit from the Department of Mines, Minerals and Energy's (herein "Department") Division of Gas and Oil.

2. Appearances: Mark A. Swartz of Kay, Casto, Chaney, Love and Wise, appeared for the Operator; Sandra B. Riggs, Assistant Attorney General, was present to advise the Board.

3. Jurisdiction: Pursuant to Va. Code § 45.1-361.1 et seq., the Board finds that it has jurisdiction over the subject matter.

4. Findings of Fact:

a. By letter dated July 19, 1996 (herein "Notice") the Inspector notified the Operator that he intended to recommend to the Board that it impose a civil charge in the amount of \$2,700.00 against the Operator pursuant to the Civil Charge Procedural Rules with reference to the Operator's conducting gas operations at the Well site without first having first obtained a permit from the Department's Division of Gas and Oil (herein "Inspector's Recommendation").

b. In support of the Inspector's Recommendation, the Inspector cited the Notice of Violations issued on July 3, 1996 by the Inspector to the Operator, Re: CMB U-15J, Application #S2341, Violation of Va. Code § 45.1-361.29.

c. The Operator filed with the Division of Gas and Oil an application for a permit for the Well which was to be drilled into a longwall panel of an underground mine underlying the Well site (herein "Mine") for degasification purposes. The Mine's workers had been on vacation and were due to return to the mine on the Monday of the week in question. Once mining of the longwall panel commenced, it would quickly approach the location of the Well. The Operator was anxious to receive its permit so that it could drill the Well, get gas out of the mine, and thereby avoid the possibility of having to shut the mine down. Since time was of the essence to the Operator, the Operator began calling the Division of Gas and Oil in an attempt to discover when the permit for the

Well would issue. Based on these informal telephone conversations with support staff in the office of the Inspector, the Operator concluded that the permit would likely issue on Wednesday; therefore, the Operator authorized work to commence at the Well site. The work at the Well site commenced on Tuesday morning, however, the Inspector was on vacation and the permit did not get issued by him until Friday of that week. Thus, the Operator conducted gas operations at the Well site for three to four days without the benefit of having an approved permit.

d. Gas may be extracted from a mine through a bore hole using two different permitting processes, i.e., (1) the hole can be permitted as a vertical ventilation hole by the Department's Division of Mines in which event the gas vented into the air; and/or (2) the hole can be permitted as a gas well through the Department's Division of Gas and Oil which allows gas to be produced. In the case of the Well, the Operator chose to pursue only the second alternative; however, the permitting process had not been completed by the time the Operator needed the hole for degasification purposes in the mine

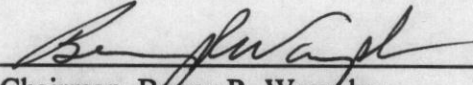
e. Pursuant to Section VIII of the Civil Charge Procedural Rules, the Board and the Operator may agree to affirm, reduce or increase a civil charge based upon the evidence submitted or discussed at the hearing.

5. Conclusions and Findings: Using the tables set forth in the Civil Charge Procedural Rules, the Board assesses to the Operator the following points and civil charge in this matter:

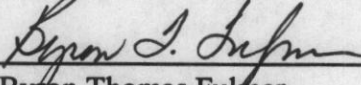
Table 1: Seriousness	4 points	
Table 2: Negligence	0 points	
Table 3: Good Faith Credit	<u>-2 points</u>	
Total:		2 points
Table 4: Civil Charge for 2 points		\$200.00

The Operator is ordered to submit to the Treasurer of Buchanan County, Virginia within 30 days of receipt of this order a certified check in the amount of \$200.00, and to concurrently submit to the Inspector a copy of said certified check as proof of payment of the civil charge.

DONE AND EXECUTED this 23<sup>rd</sup> day of October, 1996, by a majority of the Virginia Gas and Oil Board.

  
Chairman, Benny R. Wampler

DONE AND PERFORMED this 23<sup>rd</sup> day of October, 1996, by Order of this Board.

  
Byron Thomas Fulmer  
Principal Executive to the Staff  
Virginia Gas and Oil Board



STATE OF VIRGINIA )  
COUNTY OF WISE )

Acknowledged on this 23rd day of October, 1996, personally before me a notary public in and for the Commonwealth of Virginia, appeared Benny R. Wampler, being duly sworn did depose and say that he is Chairman of the Virginia Gas and Oil Board, that he executed the same and was authorized to do so.

*Susan H. Garrett*

**Susan G. Garrett**  
Notary Public

My commission expires: 07/31/98

STATE OF VIRGINIA  
COUNTY OF WASHINGTON

Acknowledged on this 23 day of October, 1996, personally before me a notary public in and for the Commonwealth of Virginia, appeared Byron Thomas Fulmer, being duly sworn did depose and say that he is Principal Executive to the Staff of the Virginia Gas and Oil Board, that he executed the same and was authorized to do so.

Diane J Davis  
Diane J Davis

**Diane J. Davis**  
**Notary Public**

My commission expires: 07/31/97